

**Remarks**

The Examiner stated that this application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. §§ 1.821 (a)(1) and (a)(2). The Examiner stated that however, this application clearly fails to comply with the requirements of 37 C.F.R. §§ 1.821-1.825. The Examiner stated that the computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. Therefore, the Examiner stated that applicants must provide: (i) a substitute computer readable form (CRF) copy of the "Sequence Listing", and (ii) a statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. §§ 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d). Applicants note that a CRF Diskette Problem Report was not provided to applicants.

In response, applicants without conceding the correctness of the Examiner's position but to expedite prosecution of the subject application hereby enclose a **substitute computer diskette** containing the Sequence Listing in computer readable form. In addition, applicants attach hereto as **Exhibit 2** a paper copy of the substitute computer readable form of the Sequence Listing. Applicants also attach hereto as **Exhibit 3** a Statement in Compliance with 37 C.F.R. §1.821(f) certifying that the substitute computer readable form contains the same information as the paper copy of the Sequence Listing attached as Exhibit 2. The Sequence Listing does not contain any new matter.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone her at the number provided below.

U.S.S.N.: 10/580,285  
Case No.: 21506YP  
Page No: 4  
Date: October 6, 2008

No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the large entity amount of such fee to Deposit Account No. 13-2755 referencing attorney docket number 21506YP.

Respectfully submitted,

By Maria V. Marucci  
Maria V. Marucci  
Reg. No. 59,895  
Attorney

MERCK & CO., INC.  
P.O. Box 2000  
Rahway, New Jersey 07065-0907  
(732) 594-5738

# **EXHIBIT 1**



## UNITED STATES PATENT AND TRADEMARK OFFICE

## Patent Department

SEP 10 2008

Patricia L Chisholm

215041  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

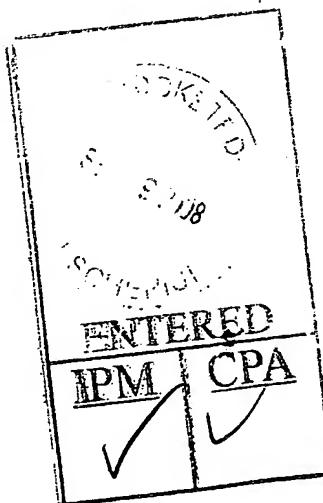
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,285	05/24/2006	Fang Chen	21506YP	4053
210 7590	09/05/2008			
MERCK AND CO., INC			EXAMINER	
P O BOX 2000			CHEU, CHANGHWA J	
RAHWAY, NJ 07065-0907				
<i>See listing Chen et al due 10/5/08</i>				
ART UNIT	PAPER NUMBER			
1641				
MAIL DATE	DELIVERY MODE			
09/05/2008	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

2008 SEP - 8 AM 11:41

INC



# **EXHIBIT 2**



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO. /CONTROL NO. 10580285	FILING DATE 5/24/06	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION CHEN, FANG	ATTORNEY DOCKET NO. 21506YP
--	------------------------	--	--------------------------------

EXAMINER JACOB CHEU
------------------------

ART UNIT 1641	PAPER 20080902
------------------	-------------------

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 C.F.R. §§ 1.821-1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be examined under 35 U.S.C. §§ 131 and 132.

APPLICANT IS GIVEN ONE MONTH FROM THE DATE OF THIS LETTER WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 C.F.R.. §§ 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 C.F.R. § 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. § 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Direct the response to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the response.

The addresses below are effective 5 June 2004. Please direct all replies to the United States Patent and Trademark Office via one (1) of the following:

1. Electronically submitted through EFS-Web (<<http://www.uspto.gov/ebc/efs/downloads/documents.htm>>, EFS Submission User Manual - ePAVE)
2. Mailed to:

Mail Stop Sequence  
Commissioner for Patents  
P.O. Box 22313 1450  
Alexandria, VA 22313 1450
3. Hand Carry, Federal Express, United Parcel Service or other delivery service to:

U.S. Patent and Trademark Office  
Mail Stop Sequence  
Customer Window  
Randolph Building  
401 Dulaney Street  
Alexandria, VA 22314

Any inquiry concerning this communication should be directed to Jacob Cheu at telephone number (571)272-0814. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Shibuya, can be reached on 571-282-0806; Please See 7/14/2008 CFR error reports.

# **EXHIBIT 3**